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**NOV 30 2009**

**OFFICE OF PETITIONS**

In re Application of	:	
Kershman et al.	:	
Application No. 09/912,219	:	
Patent No. 6,858,241	:	DECISION ON RENEWED PETITION
Filed: July 25, 2001	:	PURSUANT TO 37 C.F.R.
Issue Date: February 22, 2005	:	§ 1.378(E)
Attorney Docket Number: SK-3	:	
Title: FARINACEOUS SURFACE	:	
PRODUCT THAT IS TOASTER	:	
REHEATABLE AND METHOD	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.378(e), filed on September 21, 2009, and supplemented on October 8, 2009. Petitioner has requested reconsideration of a prior decision pursuant to 37 C.F.R. § 1.378(b), which refused to accept the delayed payment of a maintenance fee for the above-referenced patent.

The patent issued on February 22, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on February 22, 2009, with no payment received. Accordingly, the patent expired on February 22, 2009 at midnight.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

- (1) the required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);
- (2) the surcharge set forth in 37 C.F.R. § 1.20(i)(1), and;
- (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after

the patentee was notified of, or otherwise became aware of, the expiration of the patent - the showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

An original petition was filed on July 27, 2009 along with evidence which established that the petition had been previously submitted on March 3, 2009. The original petition was dismissed via the mailing of a decision on September 14, 2009, for failure to meet the third requirement of Rule 1.378(b).

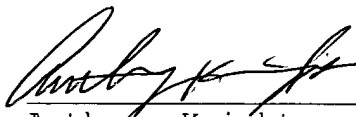
This renewed petition pursuant to 37 C.F.R. § 1.378(e) was filed on September 21, 2009, along with the \$400 petition fee. A supplement to this renewed petition was received on October 8, 2009.

With the supplement to the renewed petition, the third requirement of Rule 1.378(b) has been satisfied. It follows that each of the three requirements of 37 C.F.R. § 1.378(b) has been met, and Petitioner has demonstrated to the satisfaction of the Director that the delay in timely paying the maintenance fee was unavoidable. Consequently, this renewed petition is **GRANTED**.

The above-identified patent is hereby reinstated as of the mail date of this decision.

This file is being sent to Files Repository.

Telephone inquiries regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.<sup>1</sup>



Anthony Knight  
Supervisor  
Office of Petitions

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<sup>1</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).